

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

EDWARD R. EIDELMAN, et al : CIVIL ACTION

Plaintiffs : :

:

v. : NO. 10-2578

:

STATE FARM FIRE AND

CASUALTY COMPANY : :

Defendant : :

O R D E R

AND NOW, this 19th day of January, 2011, upon careful consideration of the motion for summary judgment filed by the plaintiffs (Doc. No. 14), defendant's response thereto (Doc. No. 15), and the motion for judgment on the pleadings filed by defendant (Doc. No. 16), IT IS HEREBY ORDERED that, pursuant to the attached memorandum:

1. Plaintiffs' motion for summary judgment (Doc. No. 14) is **DENIED**.
2. Defendants' motion for judgment on the pleadings (Doc. No. 15) is

GRANTED.

- A. Count I of plaintiffs' complaint is DISMISSED with prejudice.
- B. The Court declares that State Farm Business - Office Policy No. 98-BB-L063-1 provides coverage for loss of income as follows:
 - Plaintiffs are entitled to payment for actual loss of business income based upon the difference between what Plaintiffs would have earned if the November 9, 2009 fire had not occurred and Plaintiffs' actual earnings of the business after the November 9, 2009 fire.

- Plaintiffs are entitled to any actual expense incurred in payroll to the extent that Plaintiffs have not continued to benefit from the work of their employees as a result of the insured loss.

3. Because plaintiffs' complaint is styled as a declaratory judgment complaint and this order provides a ruling on the contractual matter at issue, the Clerk of Court is directed to mark this case CLOSED.

BY THE COURT:

/s/ Lawrence F. Stengel
LAWRENCE F. STENGEL, J.